

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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Date of Decision : 19.09.2018

**1. CM No.24578-CII of 2014 in/and
FAO No.8982 of 2014 (O&M)**

Smt. Shashi Bala and others

..... Appellants

Versus

Phool Singh and others

..... Respondents

**2. CM No.24583-CII of 2014 in/and
FAO No.8991 of 2014 (O&M)**

Smt. Geeta Devi and others

..... Appellants

Versus

Phool Singh and others

..... Respondents

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : Mr. Sachin Gupta Ladwa, Advocate
for the appellants.

Mr. Puneet Kakkar, Advocate
for respondents No.1 & 2.

Mr. Manmohan, Advocate for
Mr. Suman Jain, Advocate
for respondent No.3-insurance company.

AJAY TEWARI, J. (Oral)

**CM No.24578-CII of 2014 in FAO-8982-2014 and
CM No.24583-CII of 2014 in FAO-8991-2014**

These applications have been filed under Section 5 of the Limitation Act for the condonation of delay in filing the appeals.

For the reasons recorded, the applications are allowed and the delay of 151 and 145 days is condoned subject to the condition that in the event of enhancement the applicants-appellants would not be entitled to any interest for the period of delay.

FAO No.8982 of 2014 and FAO No.8991 of 2014

This order shall dispose of above mentioned two appeals. As common question of facts and law are involved the facts are being taken from FAO No.8982 of 2014.

These two appeals have been filed against the award of the Motor Accident Claims Tribunal, Karnal awarding a sum of Rs.6,90,200/- for the death of Ved Pal and a sum of Rs.8,27,000/- for the death of Hari Ram.

The brief facts are that on 10.08.2011 both deceased, Ved Pal and Hari Ram were riding on their motorcycle bearing No.CH-1AB-6668 on which Ved Pal was pillion rider. At 11.15 a.m. when they reached near Bus Stand, Pipli, a dumper bearing No.HR-67-4895 being driven by Phool Singh-respondent No.1 rashly and negligently overtook the motorcycle being driven by Kanwar Pal and struck against the motorcycle which was being driven by Hari Ram. As a result of the accident both Ved Pal and Hari Ram died at the spot. Claim petition was filed. The Tribunal held that the accident had been caused by the rash and negligent driving of the

respondent No.1 and ordered the compensation as mentioned above.

In FAO No.8982 of 2014, learned counsel for the appellants has argued that the tribunal erred in taking the income of the deceased-Ved Pal as only Rs.4,500/- per month. He was the owner of 8 acres of land, running a milk dairy and was having tractor and other equipments.

In my opinion, such a person could not be taken as an un-skilled labourer and has to be taken as a skilled worker. According to the schedule of minimum wages prescribed at that relevant time the salary of the skilled worker was Rs.5,293/- say Rs.5,300/-. Counsel for the appellants has argued that in view of the judgment passed in *National Insurance Company Ltd. vs. Pranay Sethi and others, 2017(4) RCR (Civil)1009*, 25% had to be awarded on account of future prospects. I find this to be indeed so. Further it is held that 25% has to be awarded towards future prospects.

Counsel for the appellants further states that under the conventional heads Rs.35,000/- more has to be awarded in view of the judgment passed in *Pranay Sethi's case (supra)* for the death of Ved Pal. Counsel for respondent No.3-insurance company has accepted this fact. Consequently, Rs.35,000/- more is awarded towards conventional heads. The entire enhanced amount will go to appellant No.1-Shashi Bala.

In FAO No.8991 of 2014 learned counsel for the appellants has argued that as per the revenue record the deceased-Hari Ram was cultivating land of his father and could not have been taken as un-skilled labourer.

In my opinion, such a person could not be taken as an

the schedule of minimum wages prescribed at that relevant time the salary of the skilled worker was Rs.5,293/- say Rs.5,300/-. Counsel for the appellants has argued that in view of the judgment passed in ***Pranay Sethi's case supra***, 40% had to be awarded on account of future prospects. I find this to be indeed so. Further it is held that 40% has to be awarded towards future prospects.

Counsel for the appellants further states that under the conventional heads Rs.35,000/- more has to be awarded in view of the judgment passed in ***Pranay Sethi's case (supra)*** for the death of Hari Ram. Counsel for respondent No.3-insurance company has accepted this fact. Consequently, Rs.35,000/- more is awarded towards conventional heads.

Out of the enhanced compensation, 50% would go to appellant No.1-Smt.Geeta Devi, 20% would go to appellants No.3 and 4 each and 10% would go to appellant No.2. The share of the minors, if any would be put in a fixed deposit and would be released only after they attain the age of majority. Rest of the award shall remain unchanged in both cases.

Both the appeals are allowed in the above terms and the awards are modified accordingly.

Since the main cases have been decided, the pending civil miscellaneous applications, if any, also stand disposed of.

(**AJAY TEWARI**)
JUDGE

19.09.2018

Pooja sharma-I

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No